IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1024 OF 2006

IN

APPEAL FROM ORDER NO.347 OF 2006

Smt.Mrudula Padmakar Mankar ...Applicant

Versus

Shri.Sahebrao Gangadhar Kadam & Ors....Respondents

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Mr.P.P.Killedar for Applicant.

Ms.P.Tendulkar i/b Mr.M.S.Karnik for Respondents 1 & 2.

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CORAM: A.M.KHANWILKAR, J.

JANUARY 25, 2007.

P.C.

1. This Application is opposed on the ground that even in the past on two occasions, Appeal was dismissed for default. It is argued on behalf of the Applicant that on those occasions, the Advocate did not appear as he was unwell.

2. Assuming that this explanation is to be

accepted which has already been considered on the earlier occasion, it was expected of the Advocate on record for the Applicant to remain present whenever the present matter was called out and give preference to this matter. Besides, no arrangement was made to request the Court to keep back the matter, which request normally is accepted by the Court. In other words, the attitude of the Advocate on record appears to be casual attitude.

3. For the aforesaid reasons, I am of the view that no sufficient cause has been made out. However, as the litigant should not suffer for the mistake of the Advocate, Application is allowed in terms of prayer clause (a), on condition that the Advocate on record for the Applicant shall personally pay cost to the Respondents 1 and 2 quantified as Rs.2,000/- (Rupees Two Thousand) within one week from today, failing which, earlier order to stand revived.

A.M.KHANWILKAR, J.